

COVER SHEET		Court Identification Docket #		Case Year	Docket Number
Civil Case Filing Form (To be completed by Attorney/Party Prior to Filing of Pleading)		<div style="border: 1px solid black; padding: 2px;">24</div> County #	<div style="border: 1px solid black; padding: 2px;">2</div> Judicial District	<div style="border: 1px solid black; padding: 2px;">CI</div> Court ID (CH, CI, CO)	<div style="border: 1px solid black; padding: 2px;">2014</div> Case Year
		<div style="border: 1px solid black; padding: 2px;">03</div> Month	<div style="border: 1px solid black; padding: 2px;">05</div> Date	<div style="border: 1px solid black; padding: 2px;">14</div> Year	<div style="border: 1px solid black; padding: 2px;">00037</div> Docket Number
		<div style="border: 1px solid black; padding: 2px;">030514</div> Local Docket ID			<div style="border: 1px solid black; padding: 2px;"></div> Local Docket ID
Mississippi Supreme Court Administrative Office of Courts		Form AOC/01 (Rev 2009)		This area to be completed by clerk	
In the <u>CIRCUIT</u>		Court of <u>HARRISON</u>		County - <u>SECOND</u>	Judicial District
Origin of Suit (Place an "X" in one box only)					
<input checked="" type="checkbox"/> Initial Filing <input type="checkbox"/> Reinstated <input type="checkbox"/> Foreign Judgment Enrolled <input type="checkbox"/> Transfer from Other court <input type="checkbox"/> Other <input type="checkbox"/> Remanded <input type="checkbox"/> Reopened <input type="checkbox"/> Joining Suit/Action <input type="checkbox"/> Appeal					
Plaintiff - Party(ies) Initially Bringing Suit Should Be Entered First - Enter Additional Plaintiffs on Separate Form					
Individual					
Last Name _____ First Name _____ Maiden Name, if applicable _____ M.I. _____ Jr/Sr/III/IV _____ Check (x) if Individual Plaintiff is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____ Estate of _____ <input checked="" type="checkbox"/> Check (x) if Individual Plaintiff is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: D/B/A or Agency <u>HARRISON COUNTY UTILITY AUTHORITY</u>					
Business					
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated _____ <input type="checkbox"/> Check (x) if Business Plaintiff is filing suit in the name of an entity other than the above, and enter below: D/B/A _____					
Address of Plaintiff <u>10271 Express Drive, Gulfport, MS 39503</u>					
Attorney (Name & Address) <u>T. Russell Nobile</u> MS Bar No. <u>100682</u> <input type="checkbox"/> Check (x) if Individual Filing Initial Pleadings NOT an attorney Signature of Individual Filing: <u><i>T. Russell Nobile</i></u>					
Defendant - Name of Defendant - Enter Additional Defendants on Separate Form					
Individual					
Last Name _____ First Name _____ Maiden Name, if applicable _____ M.I. _____ Jr/Sr/III/IV _____ <input type="checkbox"/> Check (x) if Individual Defendant is acting in capacity as Executor(trix) or Administrator(trix) of an Estate, and enter style: _____ Estate of _____ <input type="checkbox"/> Check (x) if Individual Defendant is acting in capacity as Business Owner/Operator (d/b/a) or State Agency, and enter entity: D/B/A or Agency _____					
Business <u>Phillips & Jordan, Inc.,</u>					
Enter legal name of business, corporation, partnership, agency - If Corporation, indicate the state where incorporated _____ <input type="checkbox"/> Check (x) if Business Defendant is acting in the name of an entity other than the above, and enter below: D/B/A _____					
Attorney (Name & Address) - If Known _____ MS Bar No. _____					
Damages Sought: Compensatory \$ _____ Punitive \$ _____ <input type="checkbox"/> Check (x) if child support is contemplated as an issue in this suit.* *If checked, please submit completed Child Support Information Sheet with this Cover Sheet					
Nature of Suit (Place an "X" in one box only)					
Domestic Relations		Business/Commercial		Children/Minors - Non-Domestic	
<input type="checkbox"/> Child Custody/Visitation <input type="checkbox"/> Child Support <input type="checkbox"/> Contempt <input type="checkbox"/> Divorce: Fault <input type="checkbox"/> Divorce: Irreconcilable Diff. <input type="checkbox"/> Domestic Abuse <input type="checkbox"/> Emancipation <input type="checkbox"/> Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Property Division <input type="checkbox"/> Separate Maintenance <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> UIFSA (eff 7/1/97; formerly URESA) <input type="checkbox"/> Other _____		<input type="checkbox"/> Accounting (Business) <input type="checkbox"/> Business Dissolution <input type="checkbox"/> Debt Collection <input type="checkbox"/> Employment <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Replevin <input type="checkbox"/> Other _____ Probate <input type="checkbox"/> Accounting (Probate) <input type="checkbox"/> Birth Certificate Correction <input type="checkbox"/> Commitment <input type="checkbox"/> Conservatorship <input type="checkbox"/> Guardianship <input type="checkbox"/> Heirship <input type="checkbox"/> Intestate Estate <input type="checkbox"/> Minor's Settlement <input type="checkbox"/> Muniment of Title <input type="checkbox"/> Name Change <input type="checkbox"/> Testate Estate <input type="checkbox"/> Will Contest <input type="checkbox"/> Other _____		<input type="checkbox"/> Adoption - Contested <input type="checkbox"/> Adoption - Uncontested <input type="checkbox"/> Consent to Abortion Minor <input type="checkbox"/> Removal of Minority <input type="checkbox"/> Other _____ Civil Rights <input type="checkbox"/> Elections <input type="checkbox"/> Expungement <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Post Conviction Relief/Prisoner <input type="checkbox"/> Other _____ Contract <input checked="" type="checkbox"/> Breach of Contract <input type="checkbox"/> Installment Contract <input type="checkbox"/> Insurance <input type="checkbox"/> Specific Performance <input type="checkbox"/> Other _____ Statutes/Rules <input type="checkbox"/> Bond Validation <input type="checkbox"/> Civil Forfeiture <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Injunction or Restraining Order <input type="checkbox"/> Other _____	
Appeals				Real Property	
<input type="checkbox"/> Administrative Agency <input type="checkbox"/> County Court <input type="checkbox"/> Hardship Petition (Driver License) <input type="checkbox"/> Justice Court <input type="checkbox"/> MS Dept Employment Security <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other _____				<input type="checkbox"/> Adverse Possession <input type="checkbox"/> Ejectment <input type="checkbox"/> Eminent Domain <input type="checkbox"/> Eviction <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Lien Assertion <input type="checkbox"/> Partition <input type="checkbox"/> Tax Sale: Confirm/Cancel <input type="checkbox"/> Title Boundary or Easement <input type="checkbox"/> Other _____ Torts <input type="checkbox"/> Bad Faith <input type="checkbox"/> Fraud <input type="checkbox"/> Loss of Consortium <input type="checkbox"/> Malpractice - Legal <input type="checkbox"/> Malpractice - Medical <input type="checkbox"/> Mass Tort <input type="checkbox"/> Negligence - General <input type="checkbox"/> Negligence - Motor Vehicle <input type="checkbox"/> Product Liability <input type="checkbox"/> Subrogation <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Other _____	



**Service of Process
Transmittal**

03/18/2014

CT Log Number 524597714

TO: Connie H Nichols, Corporate Secretary
Phillips & Jordan, Incorporated
10201 Parkside Drive, Suite 300
Knoxville, TN 37922

RE: Process Served in Mississippi

FOR: Phillips & Jordan, Incorporated (Domestic State: NC)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Harrison County Utility Authority (HCUA), Pltf. vs. Phillips & Jordan, Inc., Dft.
Name discrepancy noted.

DOCUMENT(S) SERVED: Summons, Complaint, Contract(s), Attachment(s), Certificate(s), Affidavit(s)

COURT/AGENCY: Harrison County Circuit Court - Second Judicial District, MS
Case # A24021437

NATURE OF ACTION: Plaintiff suffered damages due to defendant's breach of contract - seeking damages and equitable relief

ON WHOM PROCESS WAS SERVED: C T Corporation System, Flowood, MS

DATE AND HOUR OF SERVICE: By Process Server on 03/18/2014 at 09:00

JURISDICTION SERVED : Mississippi

APPEARANCE OR ANSWER DUE: Within 30 days from the date of delivery of summons and complaint

ATTORNEY(S) / SENDER(S): James C. Simpson Jr.
1105 30th Avenue
Suite 300
Gulfport, MS 39501
228-867-7141

ACTION ITEMS: SOP Papers with Transmittal, via Fed Ex 2 Day , 798261343408
Image SOP
Email Notification, Connie H Nichols CNICHOLS@PANDJ.COM
Email Notification, Cindy Edmonson cedmonson@pandj.com

SIGNED: C T Corporation System
PER: Amy McLaren
ADDRESS: 645 Lakeland East Drive
Suite 101
Flowood, MS 39232
TELEPHONE: 800-592-9023

**IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT**

HARRISON COUNTY UTILITY AUTHORITY

PLAINTIFF

VERSUS

CIVIL ACTION NO. A 2482-14-37

PHILLIPS & JORDAN, INC.

DEFENDANTS

SUMMONS

THE STATE OF MISSISSIPPI

TO: Phillips & Jordan, Inc.
Registered Agent: C.T. Corporation System
645 Lakeland East Drive, Suite 101
Flowood, MS 39232

NOTICE TO DEFENDANT

You are hereby commanded to serve this Summons and a copy of the Complaint in this action upon Phillips & Jordan, Inc., (A) promptly locating the said Defendant and handing to him a copy of this Summons and Complaint, or (B) in the event you are unable to so proceed because the Defendant cannot be found by leaving a copy of the Summons and Complaint at the Defendant's usual place of abode with his/her spouse or some other person of the Defendant's family above the age of sixteen years of age and who is willing to receive same, or (C) by such other means by law.

NOTICE TO DEFENDANT

**THE COMPLAINT WHICH IS ATTACHED TO THIS SUMMONS IS IMPORTANT AND
YOU MUST TAKE IMMEDIATE ACTION TO PROTECT YOUR RIGHTS**

You are required to mail or hand-deliver a copy of a written Answer either admitting or denying each allegation in the Complaint to James C. Simpson, Jr., or T. Russell Nobile, the Attorneys for the Plaintiff(s) WISE CARTER CHILD & CARAWAY, P.A., whose address is 1105 30th Avenue, Suite 300, Gulfport, Mississippi 39501. THIS ANSWER MUST BE MAILED OR DELIVERED WITHIN 30 DAYS FROM THE DATE OF DELIVERY OF THIS SUMMONS AND COMPLAINT, OR A JUDGMENT BY DEFAULT MAY BE ENTERED AGAINST YOU FOR THE MONEY OR OTHER THINGS DEMANDED IN THE COMPLAINT.

You must also file the original of your Answer with the Clerk of the Circuit Court within a reasonable time afterward. Not to exceed thirty (30) days from the date of service of writ.

GAYLE PARKER, CIRCUIT COURT CLERK

BY:


DEPUTY CLERK

3/5/2014



**IN THE CIRCUIT COURT OF HARRISON COUNTY, MISSISSIPPI
SECOND JUDICIAL DISTRICT**

HARRISON COUNTY UTILITY
AUTHORITY (HCUA)

PLAINTIFF

V.

CIVIL ACTION NO. A. 2402-14-37

PHILLIPS & JORDAN, INC.

DEFENDANTS.

COMPLAINT

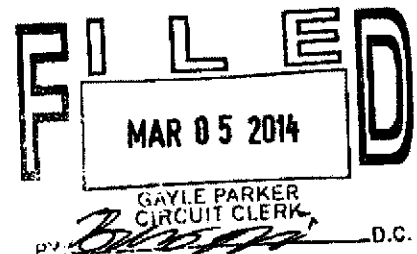
The Harrison County Utility Authority ("HCUA") files this lawsuit against Phillips & Jordan, Inc. ("P&J"). The HCUA seek damages and equitable relief.

JURISDICTION AND VENUE

1. The Circuit Court for Harrison County, Mississippi is the proper venue for this action. Miss. Code Ann. § 11-1-3.
2. This Court has jurisdiction over this matter Miss. Code Ann. § 9-7-81.

PARTIES

3. The HCUA is a political subdivision of the State of Mississippi and is located in Harrison County. The HCUA is organized pursuant to the Mississippi Gulf Coast Region Utility Act of 2006, Miss. Code Ann. § 49-17-701 et seq. The HCUA is authorized to proceed in this action.
4. P&J Inc. is a foreign corporation registered to do business in the State of Mississippi, that, among other things, provides construction services and may be served with process of law through its registered agent for service of process in Mississippi, C.T. Corporation System, 645 Lakeview East Dr., Ste 101, Flowood, MS 39232.



ALLEGATIONS

5. Following Hurricane Katrina, the State of Mississippi received Community Development Block Grant (CDBG) from the federal government to facilitate numerous improvements and repairs to the utility infrastructure along the Mississippi Gulf Coast.

6. The HCUA, as a state agency, was tasked with constructing infrastructure projects throughout Harrison County, including inside the municipal boundaries of the City of d'Iberville.

7. Project S22 called for Waterfront Wastewater System Improvements in the City of d'Iberville, Mississippi (S22). Specifically, this project involved the installation of a gravity-flow sanitary sewer collection system and pressurized sanitary sewer force main along Racetrack Road in d'Iberville.

8. The HCUA contracted with Defendant P&J who served as the construction contractor on S22. See Exhibit 1, Contract.

9. The project was substantially complete on or about May 25, 2010.

10. After substantial completion, D'Iberville received numerous complaints regarding significant asphalt failures at the intersection of Pringle Avenue and Racetrack Road.

11. On several occasions, D'Iberville attempted to mitigate and correct these failures.

12. Despite D'Iberville's best efforts, the failures were causing recurring problems at the intersection. The recurrence of these failures led the HCUA and D'Iberville to investigate the origin of these failures.

13. Through the course of the investigation, D'Iberville and the HCUA

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12. Despite D'Iberville's best efforts, the failures were causing recurring problems at the intersection. The recurrence of these failures led the HCUA and D'Iberville to investigate the origin of these failures.

13. Through the course of the investigation, D'Iberville and the HCUA

determined that the construction of S22 was deficient and substandard.

14. With respect to the failures at the intersection, the investigation unearthed that, among other things, P&J used unacceptable backfill, improperly buried debris, and did not adequately compact materials.

15. Further, the investigation revealed multiple other instances of deficient and substandard work at the intersection that also failed to comply with the contract documents and specifications, or with the state law and regulations.

16. The final construction of S22 does not conform to either the specifications or design documents for the project.

17. The final construction of S22 does not conform with the work as depicted in the as-built drawings.

18. After evaluating the cause of the failures, the HCUA and D'Iberville determined there were multiple conflicts with existing utilities in the project area. For example, the sewer force main was installed too close to potable water lines in violation of Mississippi Department of Health regulations.

19. The HCUA and D'Iberville incurred significant expense repairing and remedying P&J's substandard work.

20. P&J failed to perform and complete its work in accordance with state law and regulations, as required by contract.

COUNT ONE: BREACH OF CONTRACT

21. All the facts and allegations listed above are hereby incorporated by reference.

22. By failing to construct and complete the project in accordance with the terms of the agreement and intended design of the parties P&J breached the express terms, conditions, requirements and warranties contained in the Construction Contract agreement between the parties.

23. As a direct and proximate result of the actions of Defendant as alleged, Plaintiff has suffered substantial damages for which it is entitled to be compensated by Defendant. The amount of such damages is alleged to be in excess of the jurisdictional limits of this court, and will be proven at trial.

COUNT TWO: BREACH IMPLIED WARRANTIES

24. All the facts and allegations listed above are hereby incorporated by reference.

25. P&J breached the implied warranties related to S22 as provided under Mississippi law.

26. As a direct and proximate result of the actions of Defendant as alleged, Plaintiff has suffered substantial damages for which it is entitled to be compensated by Defendant. The amount of such damages is alleged to be in excess of the jurisdictional limits of this court, and will be proven at trial.

COUNT THREE: NEGLIGENT CONSTRUCTION AND BREACH OF IMPLIED WARRANTY OF WORKMANLIKE CONSTRUCTION

27. All the facts and allegations listed above are hereby incorporated by reference.

28. P&J negligently constructed S22 and failed to construct the project in a workmanship-like fashion.

29. As a direct and proximate result of the actions of Defendant as alleged, Plaintiff has suffered substantial damages for which it is entitled to be compensated by

Defendant. The amount of such damages is alleged to be in excess of the jurisdictional limits of this court, and will be proven at trial.

COUNT FOUR: DEFECTIVE CONSTRUCTION

30. All the facts and allegations listed above are hereby incorporated by reference.

31. P&J constructed S22 in a defective manner.

32. As a direct and proximate result of the actions of Defendant as alleged, Plaintiff has suffered substantial damages for which it is entitled to be compensated by Defendant. The amount of such damages is alleged to be in excess of the jurisdictional limits of this court, and will be proven at trial.

COUNT FIVE: NEGLIGENT MISREPRESENTATION

33. All the facts and allegations listed above are hereby incorporated by reference.

34. P&J negligently misrepresented its work on S22.

35. Specifically, P&J (1) misrepresented or omitted facts related to this project; (2) such misrepresentation or omission was material or significant; (3) P&J failed to exercise that degree of diligence and expertise the public is entitled to expect of it; (4) that the HCUA and the City of D'Iberville reasonably relied upon the misrepresentation or omission; and (5) HCUA suffered damages as a direct and proximate result of such reasonable reliance

36. As a direct and proximate result of the actions of Defendant as alleged, Plaintiff has suffered substantial damages for which it is entitled to be compensated by Defendant. The amount of such damages is alleged to be in excess of the jurisdictional limits of this court, and will be proven at trial.

WHEREFORE, the Plaintiff asks that process be issued in this matter, and that after all necessary and proper proceedings herein, Plaintiff be granted the following relief:

- (1) All damages incurred as a result of the breaches described above including, but not limited to, costs and expenses arising from all repairs and any other amount proven at trial;
- (2) Any injunctive relief proven necessary through the course of proceedings;
- (3) Plaintiff's costs and attorneys fees; and
- (4) For such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED this the 5th of March, 2014.

HARRISON COUNTY UTILITY AUTHORITY
By: T. Russell Nobile
JAMES C. SIMPSON JR. (MS BAR NO. 6810)
T. RUSSELL NOBILE (MS BAR NO. 100682)
1105 30th Avenue, Suite 300
Gulfport, Mississippi 39501
Tel: (228) 867-7141
jcs@wisecarter.com
trn@wisecarter.com
ATTORNEYS FOR HARRISON COUNTY
UTILITY AUTHORITY